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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/481,577	01/12/2000	Glenn R. Toothman, III		5806

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EXAMINER

LEE, DIANE I

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/481,577

Applicant(s)

TOOTHMAN, LLL ET AL.

Examiner

D. I. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-9,12-16,24,28,31-33 and 55-65 is/are pending in the application.
- 4a) Of the above claim(s) 56-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-9,12-16,24,28,31-33 and 55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt is acknowledged of the Amendment filed 16 June 2005. Claims 1, 9, 24, 28, and 55 have been amended; claims 2-3, 10-11, 17-23, 25-27, 29-30, and 34-54 have been previously canceled. Currently, claims 1, 4-9, 12-16, 24, 28, 31-33, and 55-65 are pending in the application. Wherein claims 56-65 have been previously withdrawn from consideration as being directed to a non-elected invention.

Claim Objections

2. Claim 24 is remain objected to because of the following informalities:

(a) Re claim 24, lines 1-5: The preamble phrase "A method for a historical notable location," should be rephrased to --A method for providing information related to a remote location, the information comprising memorial information about a deceased party and historical information about the remote location where the remote location comprises a cemetery location and a historical notable location,--. Such change would place the claim in better form. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 9, 12-13, 24, 28, and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by Weiner [EP 380 727 A1, previously cited by the Examiner].

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Re claims 9, 24, and 28: Weiner discloses a system for providing information about a historically notable location (i.e., museum) or related to a geographically remote and publicly accessible location (i.e., exhibition environment), comprising:

a memory device 2, 92, 112 affixed to a physical object positioned at the historically notable location (i.e., museum) or the geographically remote and publicly accessible location (i.e., exhibition environment) and wherein the memory device storing information related to the article in the historically notable location (i.e., museum) or related to a geographically remote and publicly accessible location (i.e., exhibition environment) (see figures 1-14);

a portable memory reading device (a portable sound-producing unit 4), separate from the memory device, held by a user, that retrieves the stored information directly from the memory device via a non-permanent proximity link when positioned at the memory location (historically notable location such as a museum) and communicates the stored information to a user located at the historically notable location (i.e., museum) or the geographically remote and publicly accessible location (i.e., exhibition environment) via a speaker 10 and/or a display 34 (see figures 1-3 and 6-14);

wherein the memory device is a contactless device for data and power (i.e., the memory device includes a static memory unit therein and is a contactless device for storing the memorial information without power, in other word, once the data corresponding to the historical information is stored internally within the memory device ROM 20, the contactless memory device itself is free from physical connection to a source of the data while the memory device is positioned at the historically notable location, see col. 10, lines 2+ and figure 8) or a contact device (see figures 1-3, 6-7, and 9);

wherein said communication of the information stored in the memory to at least one of the public users located at the historically notable location (i.e., museum) or the geographically

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remote and publicly accessible location (i.e., exhibition environment) sequentially follows and is substantially temporally commensurate with said retrieval of the memorial information directly from the memory device (see col. 6, lines 54+ and col. 5, lines 1+); and

wherein the memory device comprises a programmable read only memory device (ROM) (see col. 12, lines 23+).

wherein the memory device is free from physical connection to source of the data (i.e., one that creates the data, in other word, once the data is stored in ROM 20, the to source of the data is free from physical connection) at least while the memory device is positioned at the cemetery location

Note: It is noted by the examiner that in claim 24, the limitation of the remote memorial and historical information related to a cemetery and a historical notable of the remote location is recited in the preamble, thus has not been given patentable weight. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Re claim 12-13: wherein the memory device is permanently affixed to a stationary physical object (see figures 1, 12-14 for example).

Re claim 55: the contact memory device having a data connector (an input device or a plug 8, 43, 46, 83), wherein said data connector, upon wired connection to the said portable reader (see figure 1 for example) and upon contact with said memory device 4, 120 (i.e., upon plugged into said portable reader, see figures 1-3, 9), passed the information directly from said memory device positioned at the remote location to said portable reader located at the remote

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location via a non-permanent proximity link (see col. 6, lines 54+; col. 5, lines 1+; figures 1-3, and 9 for example).

5. Claims 1, 4-8, 14-16, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiner in view of Assisi [US 5,696,488, previously cited by the examiner].

Re claims 1, 4-6, 14, and 31: Although Weiner teaches that the system is for providing information about a historically notable location (i.e., museum) or related to the geographically remote and publicly accessible location (i.e., exhibition environment); Weiner is silent with respect to the system for providing memorial information about a decease party entered at a cemetery location and the memory device is a weather resistant memory device.

Assisi discloses a system for providing memorial information about a decease party entered at a cemetery location (see the abstract). The system includes a computer 5 having a memory device 6 permanently affixed to a stationary physical object/location positioned at the cemetery location (i.e., the computer and the memory is directly located in the cemetery 1). The memory device is weather resistant memory device and memorial information stored in the memory device (see col. 1, lines 4+; col. 2, lines 7+; and the figure). The system further includes a portable memory reading device 3, 11 holdable by one of the visitor or public users, separate from the memory device of the cemetery location 1, that retrieves the memorial information directly from the memory device of the cemetery location when it is positioned at the cemetery location (i.e., wireless communication carried out when the portable memory reading device is brought into the vicinity of the memory device 2, which is a non-permanent proximity link).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the use of the system in other environment, for example, for providing a weather resistant information device at a cemetery location, as taught by Assisi, in

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the system of Weiner in order to expand the use of the information retrieval system in other environment.

Re claims 7-8, 15-16, and 32-33: Weiner teaches the stored information in the memory device is a audible recording sound message in different languages and a video signal (see col. 2, lines 14+); and

Assisi teaches the memorial information in the memory device of the cemetery location is in form of text, image or audio data in combination of the deceased person in the cemetery and may be call up by any visitor or public user with the portable memory-reading device 3, 11 (see col. 1, lines 35+ and col. 2, lines 23+).

Weiner as modified by Assisi fails to teach the specific language format of the information resides on the memory device such as extensible markup language or hypertext markup language formats.

However, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to utilize any suitable language format appropriate to the system. Furthermore, since applicant has not discloses that utilizing extensible markup language or hypertext markup language formats in the memory device would solve any stated problems or is for any particular purpose and it appears that the invention would perform equally well with any other applicable language/text format that is available. Therefore, it would have been an obvious design variation to a person skilled in the art. One might choose the specific text format in order to meet specific communication standards/requirements. Accordingly, it would have been an obvious expedient.

Response to Arguments

6. Applicant's arguments filed 16 June 2005 have been fully considered but they are not persuasive.

7. Applicant stated on page 20, lines 20+ that the source of the data is not recited or required in the present claims and that the claims are directed to a system of loading data on a memory device. The Examiner respectfully submitted to Applicant that claims recite the portable memory reading device retrieves the memorial information stored on the memory device and nowhere in the claims defines the system directed to loading data on a memory device.

8. In response to USC 112, second paragraph, Applicant has clarified the phrase "a source of data" as *any data source capable of downloading data to a separate memory device, via a wired or wireless connection* (see page 18, lines 3+). However, it is noted that the features upon which applicant relies (i.e., "a source of data as *any data source capable of downloading data to a separate memory device, via a wired or wireless connection*") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Accordingly, given a broadest and reasonable interpretation, the above recitation (i.e., the source of data) has been interpreted by the Examiner as one that creates the data, in other word, once the data is stored in ROM 20, the source of the data is free from physical connection from the memory device, which is a contactless device).

9. Applicant argued that Weiner as seen in figure 2 (the sound producing unit of Weiner is placed in contact with the memory unit, energy is transferred to the memory unit), which is inapposite to the teaching and claims of the present invention (i.e. the memory device is free from an external physical connection to a power source at least while the memory device is

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positioned at the cemetery location). The Examiner respectfully directs Applicant's attention to figure 8, for example). The memory device is a contactless device for its power (i.e., the memory device without power source). Therefore, the sound-producing unit of Weiner is placed in contactless with the memory unit and the energy is transferred to the memory unit without physical connection to a power source.

10. In response to applicant's argument with respect to the combination of Weiner and Assisi is an impermissible combination of references, in particular, Weiner teaches the use of audible speech stored on a ROM and transfers at least power to the memory device when contacted by the sound-producing unit to be played while at the location (see page 23, lines 6+). The Examiner respectfully disagrees. Assisi's reference was used in the rejection for the specific teaching lacked in Weiner, i.e., although Weiner teaches that the system is for providing information about a historically notable location like a museum or related to the geographically remote and publicly accessible location, which is an exhibition environment; Weiner is silent with respect to the system for providing memorial information about a decease party entered at a cemetery location and the memory device is a weather resistant memory device. Assisi discloses a system for providing memorial information about a decease party entered at a cemetery location (see the abstract). The system includes a computer 5 having a memory device 6 permanently affixed to a stationary physical object/location positioned at the cemetery location (i.e., the computer and the memory is directly located in the cemetery 1, which teaches that the memory device is weather resistant memory device and memorial information stored in the memory device (see col. 1, lines 4+; col. 2, lines 7+; and the figure). Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the use of the system in other environment, for example, for providing a weather resistant information device at a cemetery location, as taught by Assisi, in the system of Weiner

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in order to expand the use of the information retrieval system in other environment.

Furthermore, the Applicant has admitted that the claimed memory device is a known device at the time of the invention. Applicant admitted on page 5 of the disclosure that in preferred embodiment of the invention, the memory devices 2B-3B comprises a commercially available iButton® contact memory device that is small in size, can be easily and permanently attached to a physical object, can store large quantities and varied types of information, and can withstand extreme weather conditions without losing or damaging the information stored therein and/or thereon. Accordingly, incorporating such known device that can withstand extreme weather conditions without losing or damaging the information stored in the teaching of Weiner in order to provide a durable, weather resistant memory device for external environment use.

Accordingly, such modification would have been an obvious expedient.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. I. Lee whose telephone number is (571) 272-2399. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3800.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



D. I. Lee
Primary Examiner
Art Unit 2876